

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Case No. CR12-0061-002 EMC

Plaintiff,

v.

**PRETRIAL ORDER FOR CRIMINAL
JURY TRIAL AND BRIEFING
SCHEDULE**

FRED LAMAR FINNEY,

Defendant.

Good cause appearing, it is hereby ordered that:

1. TRIAL DATE

a. Jury trial is scheduled for **1/12/2015** at 8:30 a.m. in Courtroom 5, 17th Floor, 450 Golden Gate Avenue, San Francisco, California. Typical court day for trial is 8:30 a.m. to 2:00 p.m.; **Thursdays** are dark.

b. The length of trial is expected to last not more than **one week**.

2. DISCOVERY

Both sides will comply with the Federal Rules of Criminal Procedure and Criminal Local Rule 16-1. The United States will comply with *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972) and *United States v. Agurs*, 427 U.S. 97 (1976).

3. MOTIONS

a. Pretrial motions (including motions *in limine*) shall be noticed and set for hearing on **12/16/2014 at 2:30 p.m.** Motions *in limine* and other pre-trial motions shall be filed with the Court by **11/25/2014**; responses are due **12/2/2014**. The briefing schedule for all motions shall comply with Criminal Local Rule 47-2.

c. Criminal Local Rule 16-1(c) disclosure shall be made no later than
10/31/2014.

4. PRETRIAL CONFERENCE

a. A pretrial conference will be held on **12/16/2014 at 2:30 p.m.** The attorneys who will try the case shall attend the conference and be prepared to discuss the matters set forth in Criminal Local Rule 17.1-1.

b. Not less than three (3) weeks before the Pretrial Conference, the parties shall, consistent with defendant's right to an effective defense, complete the following:

(1) Serve and file a pretrial statement pursuant to Crim. L.R. 17.1-1(b).

(2) Serve and file a trial brief setting forth the following:

(a) A description of each offense charged in the case.

(b) A description of all of the relevant facts upon which the parties stipulate.

(c) A brief description of the law applicable to each alleged offense, including, but not limited to, a listing of the elements of each alleged offense and affirmative defense and any instructions that the Court should consider in reaching a decision in the case.

(d) Points of law on any other issues relevant to the trial, including all foreseeable procedural and evidentiary issues.

(3) Serve and file a joint exhibit list in tabular form, with (a) a column that briefly describes the exhibit; (b) a column that describes for what purpose the party will offer the exhibit and identifies its sponsoring witness; (c) a column that states any objections to the exhibit; (d) a column that briefly responds to the objections; and (e) a blank column for the Court's use. Before this list is filed with the Court, the parties shall meet and confer, in person, to consider exhibit numbers, to eliminate duplicate exhibits and confusion over exhibits, and to make

1 a good faith effort to stipulate to admissibility. If stipulation is not
2 possible, the parties shall make every effort to stipulate to authenticity
3 and foundation absent a legitimate (not tactical) objection.

4 (4) Serve and file a list of the witnesses that each party intends to call at
5 the trial in its case-in-chief, not including rebuttal witnesses, briefly
6 setting forth for each witness the substance of their testimony.

7 (5) Exchange exhibits, which shall be pre-marked (plaintiff shall use
8 numbers; defendant shall use non-duplicative consecutive numbers as
9 agreed in advance) and tabbed.

10 (6) Deliver two (2) binders of all pre-marked exhibits to chambers
11 (exhibits are not to be filed). *Exhibits must be premarked. In*
12 *addition, one set of exhibits must be tagged.* Exhibits shall be three-
13 hole punched and shall be submitted in binders. Sample tags are
14 attached as Exhibit A hereto.

15 (7) Serve and file proposed jury instructions on all substantive issues and
16 on any procedural issue not adequately covered by the Court's
17 standard instructions (i.e. the Ninth Circuit Manual of Model Criminal
18 Jury Instructions (2003 ed. as amended through 2006) (also available
19 on the Ninth Circuit website at www.ce9.uscourts.gov) shall be given
20 absent objection: 1.1-1.12, 2.1-2.2, 3.1-3.2, 3.5-3.9, 7.1-7.6.

21 (a) Any instruction contained in the Ninth Circuit Model
22 Instructions Manual may be requested by designation of its
23 number.

24 (b) Each other instruction shall be requested by setting forth the
25 instruction in full text on a separate sheet with reference to
26 supporting legal authority.

27 (c) Prior to filing the proposed instructions, the parties shall meet
28 and confer and work in good faith towards a stipulated set of

instructions. If a full agreement is not reached, the parties shall enumerate the instructions on which an agreement is reached and then list separately the additional instructions proposed by each party.

(8) Serve and lodge a proposed form of verdict and proposed questions for jury voir dire. Voir dire questions not agreed to shall be listed separately.

c. Not less than **two (2) weeks** prior to the Pretrial Conference, the parties shall:

(1) Serve and file any formal objections to the opposing party's witnesses. As to objections to exhibits on the exhibit list, the objecting party shall set forth a detailed basis for each objection. Failure to do so shall be deemed a waiver.

d. No party shall be permitted to call any witness or offer any exhibit in their case in chief that is not disclosed pursuant to this Pretrial Order, without leave of Court for good cause shown, consistent with defendant's right to an effective defense.

e. All motions *in limine* shall be heard at the Pretrial Conference.

5. CHALLENGES

The procedure for exercising peremptory challenges in Criminal Local Rules 24-2 and 24-3 will be observed absent objection by the parties.

6. COPIES

Each document filed or lodged with the Court must be accompanied by a copy for use in the Judge's chambers.

7. CHANGE OF PLEA

Counsel shall give prompt notice to the United States Attorney and to the Court of any intention to change a previously entered not guilty plea. A written plea agreement must be submitted at least one (1) day in advance of the plea.

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1 8. Jury instructions, proposed form of verdict, and requested voir dire shall also be
2 submitted to Chambers in Word or WordPerfect format on a CD.

3 Dated: September 5, 2014
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EDWARD M. CHEN
United States District Judge

JUROR QUESTIONNAIRE

- 1
- 2 1. Name.
- 3 2. City of residence.
- 4 3. Occupational status.
- 5 4. Educational background.
- 6 5. Organizations.
- 7 6. Hobbies.
- 8 7. Marital status.
- 9 8. Spouse's occupation.
- 10 9. Children (including ages).
- 11 10. If a juror on another case.
- 12 11. If ever a grand juror.
- 13 12. If ever in the military.

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EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number:

PLTF / DEFT EXHIBIT NO. _____

Date Admitted: _____

By: _____

Betty Lee, Deputy Clerk

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